

## The Commonwealth of Massachusetts

In the Year Two Thousand and Ten.

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HOUSE . . . . . . . . . . . . No. 4875

## The Commonwealth of Massachusetts

PRESENTED BY:

Timothy J. Toomey, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act authorizing the grant of easements upon land of the Commonwealth located in the City of Cambridge.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Timothy J. Toomey, Jr.	26th Middlesex
William N. Brownsberger	24th Middlesex
Jonathan Hecht	29th Middlesex

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An Act authorizing the grant of easements upon land of the Commonwealth located in the City of Cambridge.

Whereas, The deferred operation for this act would tend to defeat its purpose, which is forthwith to make to provide for easements necessary for the construction of a stormwater wetland and related improvements as part of a sewer separation and stormwater management project, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience. , therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

**SECTION 1.** Notwithstanding sections 40E to 40J of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of the division of capital asset management and maintenance may, in consultation with the commissioner of the department of conservation and recreation and the Massachusetts water resources authority, grant permanent non-exclusive easements to the city of Cambridge, under the care and control of its department of public works, on public park land under the care and control of the department of conservation and recreation and other lands owned by the commonwealth and used for sewer or stormwater management purposes in accordance with chapter 372 of the acts of 1984 and as the easement areas are more particularly defined in section 2 subsections (a), (b), and (c). Prior to the execution of any easement instrument to the city of Cambridge, the city of Cambridge, by its city manager, and the department of conservation and recreation shall execute a memorandum of agreement that shall detail the mitigation and maintenance responsibilities upon the easement areas and land under the control of the department.

**SECTION 2.** The easement areas authorized under section 1 are defined as follows:

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- 18 (a) An area containing 187,547 square feet±, or 4.305 acres, and shown as "Access and
- 19 Maintenance Easement Area 'R'" on a plan entitled, "Easement Plan, Access and
- 20 Maintenance Easement Area R, Utility Easement Areas R1 & R2 and Easement Areas R3
- & R4, 'Alewife Reservation' Cambridge, Mass.", dated March 19, 2010, revised on July 1,
- 22 2010, by Harry R. Feldman, Incorporated, Land Surveyors.

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- 24 (b) An area containing 8,226± square feet and shown as "Utility Easement Area 'R1',"
- 25 an area containing 2,972± square feet and shown as "Utility Easement Area 'R2'," an area
- 26 containing 1,278± square feet and shown as "Easement 'R3'," and an area containing
- 27 1,291± square feet and shown as "Easement 'R4" on a plan entitled, "Easement Plan,
- 28 Access and Maintenance Easement Area R, Utility Easement Areas R1 & R2 and
- 29 Easement Areas R3 & R4, 'Alewife Reservation' Cambridge, Mass.", dated March 19,
- 30 2010, revised on July 1, 2010, by Harry R. Feldman, Incorporated, Land Surveyors.

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- 32 (c) An area of 8,401± square feet and shown as "Easement Area A-1," and an area of
- 33 307± square feet and shown as "Easement Area A-2" on a plan entitled "Easement Plan,
- Easement Areas A1 & A2, 55 Wheeler Street & 70 Fawcett Street, Cambridge, Mass."
- prepared by Harry R. Feldman, Inc., dated March 19, 2010.

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- 37 The commissioner of capital asset management and maintenance may approve necessary
- minor modifications to these areas, with the approval of the department of conservation
- and recreation and the city of Cambridge.

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- 41 **SECTION 3.** No easement instrument executed pursuant to section 1 shall be valid
- 42 unless it provides that the easements conveyed shall be used solely for, as the case may be,
- 43 access and maintenance of a stormwater wetland or for stormwater management, sewer,
- water, or utility purposes on public parklands.
- The easement instruments upon property under the control of the department of
- conservation and recreation shall not unreasonably interfere with the department's use of
- 47 its land, including by the public, and shall include a reversionary clause that stipulates the
- 48 easement shall revert to the commonwealth and be extinguished, upon such terms and
- 49 conditions as the commissioner of capital asset management and maintenance may
- determine, if an easements ceases to be used for the purposes for which it was conveyed.
- Notwithstanding any other general or special law to the contrary, if the property ceases to
- be used at any time for the such purposes, or is used for any purpose other than the public
- 53 purposes stated in this act, the commissioner of the division of capital asset management
- and maintenance shall give written notice to the city of the unauthorized use. The city
- shall, upon receipt of the notice, have 90 days to respond and a reasonable time to establish
- an authorized use of the easement area.

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- 58 **SECTION 4.** The consideration for the easements authorized under this act, and as a
- 59 condition precedent to the grant of the easements by the commonwealth, shall be the

- conveyance by the city of Cambridge, upon enactment of home-rule legislation meeting the requirements of amended article 49 of the state constitution, of a permanent easement
- 62 to the commonwealth at no cost, under the care and control of the department of
- 63 conservation and recreation for public recreation purposes, upon a 16,293± square foot
- area of land located in the town of Watertown and held by the city of Cambridge for water supply purposes.
- The easement instrument upon property under the control of the city of Cambridge shall
- not unreasonably interfere with the city of Cambridge's use of its land and shall include a
- reversionary clause that stipulates the easement shall revert to the city of Cambridge and be
- 69 extinguished, upon such terms and conditions as the city of Cambridge may determine, if
- the easement ceases to be used for the purposes for which it was conveyed.
- Notwithstanding any other general or special law to the contrary, if the property ceases to
- be used at any time for the such purposes, or is used for any purpose other than the public
- purposes stated in this act, the city of Cambridge shall give written notice to the
- department of conservation and recreation of the unauthorized use. The department of
- conservation and recreation shall, upon receipt of the notice, have 90 days to respond and a
- reasonable time to establish an authorized use of the easement area.

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- 78 **SECTION 5.** The city of Cambridge shall be responsible for all costs and expenses
- 79 incurred or required to be incurred by the city of Cambridge, including but not limited to,
- 80 costs associated with any engineering or surveys or other necessary due diligence in
- connection with the city of Cambridge's use of the easements granted to it pursuant to this
- 82 act.